

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GARY GIESELMAN,)
)
Plaintiff,)
)
vs.) Case No. 4:10CV1619 RWS
)
VALERIA WILSON JACKSON, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

While in custody at the Washington County jail, Gary Gieselman was severely beaten by inmates at the direction of defendants Vernon Wilson and Valeria Wilson Jackson. Both of these defendants have been convicted in this Court for their role in the attack on Gieselman. Defendants Wilson, Jackson, and Washington County now move for summary judgment in this § 1983 case on the ground that Gieselman, in exchange for \$50,000, signed a release indemnifying them from any claims arising out of his beating. Defendants attached a copy of the release to their motion for summary judgment. It is signed only by Gieselman, not defendants, and there is no evidence documenting its authenticity or demonstrating that the release was executed in accordance with Missouri law.

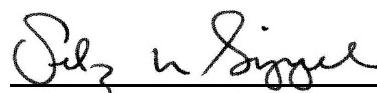
Gieselman contends that summary judgment should be denied because there are genuine disputes of material fact concerning whether the release is void or voidable. In part, Gieselman challenges the release based on statements made to

him by the Missouri Public Entity Risk Management Fund (MOPERM), defendants' insurer. Gieselman has now filed a second amended complaint joining MOPERM and others as defendants.

In light of MOPERM's recent joinder as a defendant, and in consideration of the dearth of evidence authenticating the release and demonstrating its compliance with Missouri law, I find that defendants' motion for summary judgment must be denied as premature. Whether this issue may ultimately dispose of Gieselman's claims is not properly before me at this time.

Accordingly,

IT IS HEREBY ORDERED that defendants' motion for summary judgment [#27] is denied without prejudice.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of August, 2011.